

NO. PD-0710-17

ELIZABETH ANN GARRELS	§	IN THE TEXAS COURT OF
	§	COURT OF CRIMINAL APPEALS
V.	§	11/10/2017
	§	DEANA WILLIAMSON, CLERK
	§	
THE STATE OF TEXAS	§	AT AUSTIN, TEXAS

**STATE'S MOTION FOR
EXTENSION OF TIME TO FILE BRIEF**

**TO THE HONORABLE JUDGES OF THE COURT OF CRIMINAL
APPEALS:**

COMES NOW the State of Texas, by the undersigned assistant district attorney, and moves the Court for an extension of time to file its appellate brief in the above-captioned case. The State would respectfully show the Court the following:

1. This is an appeal from a denial of pre-trial habeas corpus relief. The appellant is charged with the misdemeanor offense of driving while intoxicated, and she filed an application for a writ of habeas corpus, arguing that the prosecution violated the double jeopardy statute after the trial court granted a mistrial. The trial court signed an order denying habeas corpus relief on January 30, 2017.

2. The Court of Appeals for the Ninth District affirmed the denial of habeas corpus relief in an opinion issued May 10, 2017.

3. This Court granted the appellant's petition for discretionary review on September 14, 2016.

4. The appellant filed his brief in this Court on October 10, 2017.
5. The State's brief is due to be filed on or before November 9, 2017.
6. The State has not previously requested an extension of time to file its brief in this case.
7. The State hereby requests a thirty-day extension of time to file its brief, until December 11, 2017.
8. Good cause exists for the requested extension of time, for the following reasons:

In the past 30 days, the undersigned counsel for the State has been required to file the State's brief in *John William Miller v. The State of Texas*, Cause No. 09-17-00053-CR; the State's motion to designate factual issues for resolution in *Ex Parte Charles Larocca Marino*, Cause No. 13-10-10511-CR-(1); and the State's designation of issues in *Ex Parte Nicole Nadra Baukus*, Cause No. 12-06-07085-CR-(1).

Counsel is currently engaged in the completion of the State's answer in *Ex Parte Nicole Nadra Baukus*, No. 12-06-07085-CR (1), an intoxication manslaughter case which has required extensive research and preparation.

Further, the undersigned counsel is assigned to represent the State in Montgomery County's misdemeanor expunction cases, and has been required to attend to duties pursuant to that assignment.

Consequently, counsel has not had sufficient time to prepare an adequate State's brief in this case.

THEREFORE, the State requests an extension of time to file its brief until December 11, 2017, in this case.

Respectfully submitted,

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/s/ Brent Chapell
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing motion is being served on counsel for the appellant, Mr. Matthew J. DeLuca, by electronic mail, on this 9th day of November, 2017.

/s/ Brent Chapell
BRENT CHAPELL
Assistant District Attorney
Montgomery County, Texas